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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,579	05/22/2001	Mitchell Jay Schultz	1142257-0003	7971

7470 7590 09/29/2004

WHITE & CASE LLP  
PATENT DEPARTMENT  
1155 AVENUE OF THE AMERICAS  
NEW YORK, NY 10036

EXAMINER

OPSASNICK, MICHAEL N

ART UNIT PAPER NUMBER

2655

DATE MAILED: 09/29/2004

*[Handwritten number 5]*

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/862,579

Applicant(s)

SCHULTZ ET AL.

Examiner

Michael N. Opsasnick

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/27/2001.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Specification*

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Pertrushin (6480826).

As per claims 1,11,12, Pertrushin (6480826) teaches:

“a computerized method.....inquiries” as database of human emotions associated with voice (fig. 6, subblock 600);

“prompting....personality” as receiving voice signals (Fig. 6, subblock 602);

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“detecting....inquiry....personality’s voice” as voice extraction, selecting an associated emotion, and outputting the emotion (Fig. 6, subblocks 604-610).

As per claim 2, Pertrushin (6480826) teaches third party calling via a telecommunications network (col. 1 lines 46-53).

As per claims 3-7, Pertrushin (6480826) teaches using the system over a telecommunications network, and especially for remote telecommunications (col. 1 lines 40-53), including the use of local storage/memory (col. 2 line 61 – col. 3 line 14).

As per claim 8, Pertrushin (6480826) teaches:

“means.....inquiries” as database of human emotions associated with voice (fig. 6, subblock 600);

“means...detecting...personality” as receiving voice signals (Fig. 6, subblock 602);

“means...interpreting....inquiry....accessing...transmitting...user” as voice extraction, selecting an associated emotion, and outputting the emotion (Fig. 6, subblocks 604-610).

As per claim 9, Pertrushin (6480826) teaches:

“means....database” as comparing to stored responses (col. 3 lines 49-65);

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“means for storing....voice responses....inquiry” as storing evaluator statistics and using these statistics to determine emotions (col. 4 lines 15-63).

“means for transmitting....user” as presenting to the user (Fig. 4, subblock 610)

As per claim 10, Pertrushin (6480826) teaches creating a database wherein the question are asked from focus groups to extract speech information according to emotions, storing these as samples, and using the samples for future emotional recognition (Col. 3 lines 30-52; col. 4 lines 40-65)

As per claims 13-19 Pertrushin (6480826) teaches transmission of the information, including the user selecting the emotion/personality (col. 4 lines 11-16).

### *Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see related art listed on the PTO-892 form.

**5. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872 9314,

(for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (703)305-4089, who is available Tuesday-Thursday, 9am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Doris To, can be reached at (703)305-4827. The facsimile phone number for this group is (703)872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2600 receptionist whose telephone number is (703) 305-4750, the 2600 Customer Service telephone number is (703) 306-0377.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mno

9/27/2004

  
SUSAN MCFADDEN  
PRIMARY EXAMINER